



City Council Meeting Minutes

Tuesday, January 11, 2022

Virtual Meeting <https://sanjoseca.zoom.us/j/93052835954>

SAM LICCARDO, MAYOR
CHAPPIE JONES, VICE MAYOR, DISTRICT 1
SERGIO JIMENEZ, DISTRICT 2
RAUL PERALEZ, DISTRICT 3
DAVID COHEN, DISTRICT 4
MAGDALENA CARRASCO, DISTRICT 5
DEV DAVIS, DISTRICT 6
MAYA ESPARZA, DISTRICT 7
SYLVIA ARENAS, DISTRICT 8
PAM FOLEY, DISTRICT 9
MATT MAHAN, DISTRICT 10



*** COVID-19 NOTICE ***

Consistent with AB 361 and City of San Jose Resolution Nos. 79485, 80237, 80266, 80290, 80323, and 80343, Councilmembers will be teleconferencing from remote locations.

- **Call to Order and Roll Call**

9:30 a.m. - Closed Session. 21-2637: *See Pages 17-21 for Closed Session Minutes.*

Councilmembers Absent: All present virtually.

1:30 p.m. - Regular Session.

Councilmembers Present: All present virtually.

- **Pledge of Allegiance**

Mayor Sam Liccardo led the Pledge of Allegiance.

- **Invocation (District 1)**

Pastor, from Emmanuel Baptist Church, Jason C. Reynolds offered the invocation.

- **Orders of the Day**

Public Comments: Paul Soto, Blair Beekman, Victor Vasquez, and Tessa Woodmansee spoke to the Orders of the Day.

Mayor Sam Liccardo stated that Item 3.8 (Booster Mandate) was amended to now require a 2/3 Vote, and stated that public comments would be limited to one-minute.

Action: Upon motion by Councilmember Sergio Jimenez, seconded by Councilmember Raul Peralez, and carried unanimously, the Orders of the Day were approved. (11-0.)

Councilmember Sylvia Arenas stated the meeting was adjourned in honor and memory of Sotera Castillo Solis.

- **Closed Session Report**

City Attorney, Nora Frimann addressed an agreed settlement offered by the Court involving a City automobile.

1. CEREMONIAL ITEMS

- 1.1 Councilmember Magdalena Carrasco introduced representatives from the South Bay Coalition to End Human Trafficking (SBCEHT) and spoke on the importance of this Proclamation. A commendation was issued to Legal Services Chair of the (SBCEHT), Supervising Attorney, Ruth Silver Taube and Director of Strategic Development, Sharan Dhanoa.
- 1.2 Councilmember Sylvia Arenas and Councilmember Maya Esparza introduced representatives from the Evergreen School District and spoke on the importance of this Proclamation. A commendation was issued to Evergreen School District Superintendent, Dr. Emy Flores and President, Board of Trustees Member, Chris Corpus in recognition of their outstanding efforts to keep the Evergreen community safe and healthy during this pandemic.

2. CONSENT CALENDAR

Public Comments: Paul Soto, Brad, Tessa Woodmansee, Martha O'Connell, David Noel, R. Konda, Blair Beekman, José Pavon, Victor Vasquez, Carmen B., Hector Moreno, Niousha Farhangi, Dilza Gonzalez, Gabriela, Jeffrey Buchanan, Mollie Mcleod, Araceli Rueda, José, Gail Anne Osmer, Macky Avila, Andy Garcia Chaidaz, Ruth Silver Taube, Maria Noel Fernandez, Nancy, Veronica, and Caller '0131' spoke to the items on the Consent Calendar.

Councilmember Dev Davis stated she needed to register a no vote for part (c) of Item 2.2.

City Clerk, Toni Taber spoke to the interpretation process and provided her email for the public to request interpretation services.

Councilmember Maya Esparza stated that Items with anticipated public interest should have translators available without the public needing to request it.

Mayor Sam Liccardo suggested that interpretation services be an item on the Rules and Open Government Committee (ROGC) Agenda, so that a conscious decision is made.

Action: Upon motion by Councilmember Maya Esparza, seconded by Councilmember Pam Foley, and carried unanimously, the Consent Calendar was approved as a whole, excluding Item 2.2 (c), and the below listed actions were taken as indicated. (11-0.)

2.1 Approval of City Council Minutes.

None provided.

2.2 21-2655

Final Adoption of Ordinances.

(a) Ordinance No. 30702 - An Ordinance of the City of San José Establishing and Declaring the Boundaries of the City Council Districts Using 2020 Federal Census Data. [Redistricting] [Passed for Publication on 12/14/2021 - Item 3.4(b) (21-2545)] (b) Ordinance No. 30703 - An Ordinance of the City of San José Granting a Commercial Solid Waste and Recyclables Collection Franchise to Hayward Transfer Station. [Passed for Publication on 12/14/2021 - Item 6.1(b) (21-2568)] (c) Ordinance No. 30707 - An Ordinance of the City of San José Adding a New Part 8 to Chapter 20.30 of Title 20 of

the San José Municipal Code to Implement Senate Bill 9 to Allow for Additional Density in Single-Family Neighborhoods. [Passed for Publication on 12/14/2021 - Item 10.5(b) (21-2570)]

Councilmember Dev Davis registered a no vote for only part (c) of the item.

Action: (a) **Ordinance No. 30702** and (b) **Ordinance No. 30703** were adopted. (11-0.) (c) **Ordinance No. 30707** was adopted. (10-1-0. Noes: Davis)

2.3 Approval of Council Committee Minutes.

None provided.

2.4 21-2662 Mayor and Council Excused Absence Requests.

(a) Request for an excused absence for Councilmember Davis from the Regular Meeting of the Rules and Open Government Committee on December 1, 2021 due to personal travel. (b) Request for excused absences for Vice Mayor Jones from the Regular Meetings of the Rules and Open Government Committee on November 17, 2021 and Public Safety, Finance and Strategic Support Committee on November 18, 2021 due to personal reason. CEQA: Not a Project, File No. PP17-010, City Organizational and Administrative Activities resulting in no changes to the physical environment. (Davis & Jones) [Rules Committee referral 1/5/2022 - Item A.1.a]

Action: The Mayor and Council excused absence requests were approved. (11-0-0.)

2.5 City Council Travel Reports.

None provided.

2.6 Report from the Council Liaison to the Retirement Boards.

None provided.

2.7 21-2638 Action Related to the Knight Foundation Data Capacity Expansion Grant.

(a) Adopt a resolution authorizing the City Manager or designee to: (1) Accept grant funds from the John S. and James L. Knight Foundation (Knight Foundation) in an amount not to exceed \$750,000 to expand the City's data leadership and capacity to use data to help make decisions, measure outcomes, and drive results that incorporate equity into the planning and delivery of City services; and (2) Negotiate and execute any documents necessary to accept the grant funds. (b) Adopt the following 2021-2022 Appropriation Ordinance and Funding Source Resolution Amendments in the General Fund: (1) Increase the estimate for Other Revenue by \$750,000; and (2) Establish the Data Capacity Expansion Project City-Wide Expenses appropriation to the City Manager's Office in the amount of \$750,000. CEQA: Not a Project, File No. PP17-003, Agreements/Contracts (New or Amended) resulting in no physical changes to the environment. (City Manager)

Action: (a) **Resolution No. 80335**, (b) Appropriation **Ordinance No. 30709**, and Funding Source **Resolution No. 80336** were adopted. (11-0-0.)

2.8 21-2639 Actions Related to the Memorandum of Understanding with the Urban Areas Security Initiative.

Adopt a resolution authorizing the City Manager or designee to: (a) Execute an updated Memorandum of Understanding (MOU) with the Bay Area Urban Areas Security Initiative; and (b) Execute amendments to the MOU to extend the term of the agreement up to four years and to make minor amendments to the MOU for governance, operational efficiencies, and transfer of funds within the established City Manager authority. CEQA: Not a Project, File No. PP17-006, Grant Application with no commitment or obligation to enter into an agreement at the time of application. (City Manager)

Action: **Resolution No. 80337** was adopted. (11-0-0.)

2.9 21-2640 Amendment to Lease of City-Owned Property in the Vicinity of 5285 Doyle Road.

Adopt a resolution authorizing the City Manager, or her designee, to negotiate and execute a Fourth Amendment to the Lease of City-owned property near 5285 Doyle Road dated June 24, 1997 between the City of San José and Pacific Bell Telephone Company, a California corporation, to extend the lease term retroactive from November 15, 2021 to November 14, 2026, for a total of five years, for a total cost of approximately \$722,842.69. CEQA: Not a Project, File No. PP17-003, Agreements/Contracts (New or Amended) resulting in no physical changes to the environment. (Economic Development and Cultural Affairs)

Action: **Resolution No. 80338** was adopted. (11-0-0.)

2.10 21-2641 Actions Related to the Purchase Order for Advanced Transportation Controller Cabinets.

Adopt a resolution authorizing the City Manager to: (a) Execute a purchase order with McCain Manufacturing, Inc (Vista, CA) for Advanced Transportation Controller for a twelve-month period, starting on or about January 12, 2022 and ending on January 11, 2023, for an amount not to exceed \$750,000; and (b) Exercise up to four (4) additional one-year options to extend the initial term of the purchase order with the last option year ending on or about January 11, 2027, subject to the appropriation of funds. CEQA: Not a Project, PP17-003, Agreements/Contracts (New or Amended) resulting in no physical changes to the environment. (Finance)

Action: **Resolution No. 80339** was adopted. (11-0-0.)

2.11 21-2642 Agreement with the City and County of San Francisco for 2021 Urban Areas Security Initiative (UASI) Grant Funds.

(a) Adopt a resolution authorizing the City Manager to execute an Agreement between the City of San José and the City and County of San Francisco, acting as fiscal agent for the Bay Area Urban Areas Security Initiative, to accept the 2021 UASI grant allocation in the amount of \$1,681,608 and to negotiate and execute additional amendments and related documents without further City Council action. (b) Adopt the following

Appropriation Ordinance and Funding Sources Resolution Amendments in the General Fund: (1) Establish a City-Wide Expenses appropriation to the Police Department for the Urban Areas Security Initiative Grant - Police 2021 in the amount of \$753,483; (2) Establish a City-Wide Expenses appropriation to the Fire Department for the Urban Areas Security Initiative Grant - Fire 2021 in the amount of \$679,375; and (3) Increase the estimate for Revenue from Federal Government by \$1,432,858. CEQA: Not a Project, File No. PP17-004, Government Funding Mechanism or Fiscal Activity with no commitment to a specific project which may result in a potentially significant physical impact on the environment. (Fire/Police/City Manager)

Action: (a) **Resolution No. 80340**, (b) Appropriation **Ordinance No. 30710**, and Funding Sources **Resolution No. 80341** were adopted. (11-0-0.)

2.12 21-2643

Amendment to Master Consultant Agreement with Brown and Caldwell to Provide Engineering Analysis, Design, Construction Management, and Environmental Consulting Services for Various Storm and Sanitary Sewer System Improvement Projects.

Approve the First Amendment to the Master Consultant Agreement with Brown and Caldwell for engineering analysis, design, construction management and environmental consulting services for various storm and sanitary sewer system improvement projects, extending the term of the agreement from January 31, 2022 to January 31, 2025, with no increase to the maximum compensation. CEQA: Not a Project, File No. PP17-002, Consultant services for design, study, inspection, or other professional services with no commitment to future action; and File No. PP17-003, Agreements/Contracts (New or Amended) resulting in no physical changes to the environment. (Public Works)

Action: The First Amendment to the Master Consultant Agreement with Brown and Caldwell for engineering analysis, design, construction management and environmental consulting services for various storm and sanitary sewer system improvement projects was approved. (11-0-0.)

2.13 21-2644

Amendment to Master Consultant Agreement with David J. Powers & Associates, Inc. and for Environmental Consulting Services for City Improvement Projects.

Approve the First Amendment to the Master Consultant Agreement with David J. Powers & Associates, Inc. for environmental consulting services for various infrastructure improvement projects, extending the term of the agreement from January 31, 2022 to January 31, 2029, with no increase to the maximum compensation. CEQA: Not a Project, File No. PP17-002, Consultant services for design, study, inspection, or other professional services with no commitment to future action; and File No. PP17-003, Agreements/Contracts (New or Amended) resulting in no physical changes to the environment. (Public Works)

Action: The First Amendment to the Master Consultant Agreement with David J. Powers & Associates, Inc. for environmental consulting services for various infrastructure improvement projects was approved. (11-0-0.)

2.14 21-2645

Actions Related to the Construction Contract for the Andrew P. Hill Community Wi-fi Infrastructure and Digital Inclusion Program.

Adopt a resolution authorizing the Director of Public Works to: (a) Award and execute a contract for the construction of 9766 Andrew P. Hill Project, to the lowest responsive, responsible bidder in an amount not to exceed \$1,500,000; (b) Decide any timely bid protest(s) and make the City's final determination as to the lowest responsive bidder that is responsible as needed to award the contract; and (c) Establish a construction contingency of up to 10% percent of the amount of the construction contract for the Project. CEQA: "Categorically Exemption, File No. PP16-085, CEQA Guidelines Section 15303, New Construction or Conversion of Small Structures." Council Districts 2, 7. (Library/Public Works)

Action: **Resolution No. 80342** was adopted. (11-0-0.)

2.15 21-2654

Extension of AB 361 Implementation to Allow Teleconferenced Public Meetings to Continue through February 10, 2022 during the Governor's Proclaimed COVID State of Emergency.

Adopt a resolution of the Council of the City of San José finding the continued existence of the need to extend AB 361 implementation and amending the City's Consolidated Open Government and Ethics (Sunshine) Resolution No. 77135 to incorporate the Governor's proclaimed COVID state of emergency to allow City legislative bodies and Joint Power Authority legislative bodies for which the City serves as lead staffing agency to hold public meetings solely by teleconference or otherwise electronically pursuant to AB 361; to modify agenda noticing and document posting; and to incorporate all future Governor's Executive Orders regarding the Brown Act into the City's open government procedures, as deemed appropriate by the City Clerk and City Manager, without further Council action. CEQA: Not a Project, File No. PP17-010, City Organizational and Administrative Activities resulting in no changes to the physical environment. (City Clerk)

Action: **Resolution No. 80343** was adopted. (11-0-0.)

2.16 21-2661

Boards and Commissions Appointments.

Approve the following Boards and Commissions appointments: (a) Federated Retirement Board: (1) Appoint Mark Linder as the Retiree Representative to the Federated Retirement Board to a term ending November 30, 2024. (b) Civil Service Commission: (1) Appoint William Brill as the Employee Nominated Public Member to the Civil Service Commission to a term ending November 30, 2025. CEQA: Not a Project, File No. PP17-010, City Organizational and Administrative Activities resulting in no changes to the physical environment. (City Clerk) [(b)(1) - Rules Committee referral 1/5/2022 - Item A.1.a]

Action: The Boards and Commissions appointments were approved. (11-0-0.)

- 2.17 21-2698 Amendment to the Master Agreement with Alliance Resource Consulting, LLC for Recruitment Projects.**
Adopt a resolution authorizing the City Manager to negotiate and execute a Second Amendment to the Master Agreement with Alliance Resource Consulting, LLC, for recruitment projects, increasing the amount of compensation by \$250,000 for a total compensation amount not to exceed \$790,000, subject to annual appropriation of funds. CEQA: Not a Project, File No. PP17-003, Agreements/ Contracts (New or Amended) resulting in no physical changes to the environment. (Human Resources) [Rules Committee referral 1/5/2022 - Item A.1.a]
- Action: **Resolution No. 80344** was adopted. (11-0-0.)
- 2.18 21-2676 Request for Travel Authorization for Mayor Liccardo.**
As recommended by the Rules and Open Government Committee on January 5, 2022, authorize travel for Mayor Liccardo to Washington, DC from January 18 - 21, 2022 to attend the United States Conference of Mayors (USCM) Winter Meeting. CEQA: Not a Project, File No. PP17-010, City Organizational and Administrative Activities Resulting in no changes to the physical environment. (Mayor) [Rules Committee referral 1/5/2022- Item G.3]
- Action: The request for Travel Authorization for Mayor Liccardo was approved. (11-0-0.)
- 2.19 21-2683 Approval of Dumpster Day Sponsored by Council District 5 as a City Council Sponsored Special Event to Expend City Funds and Accept Donations of Materials and Services for the Event.**
As recommended by the Rules and Open Government Committee on January 5, 2022: (a) Approve the Dumpster Day Event scheduled on January 22, 2022 as a City Council sponsored Special Event and approve the expenditure of funds. (b) Approve and accept donations from various individuals, businesses or community groups to support the event. CEQA: Not a Project, File No. PP17-011, Temporary Special Events resulting in no changes to the physical environment. (Carrasco) [Rules Committee referral 1/5/2022- Item G.1.a]
- Action: The City Council Sponsored Special Event was approved. (11-0-0.)
- 2.20 21-2690 Retroactive Approval of Small Business Advisory Task Force (SBATF) Membership Recognition Event Sponsored by Council District 1 as a City Council Sponsored Special Event to Expend City Funds and Accept Donations of Materials and Services for the Event.**
As recommended by the Rules and Open Government Committee on January 5, 2022: (a) Retroactively approve the SBATF Membership Recognition Event scheduled on December 9, 2021 as a City Council sponsored Special Event and approve the expenditure of funds. (b) Approve and accept donations from various individuals, businesses or community groups to support the event. CEQA: Not a Project, File No. PP17-011, Temporary Special Events resulting in no changes to the physical environment. (Jones) [Rules Committee referral 1/5/2022 - Item G.1.b]

Action: The City Council Sponsored Special Event was retroactively approved. (11-0-0.)

- 2.21 21-2697 Retroactive Approval of Community Events Sponsored by Council District 8 as City Council Sponsored Special Events to Expend City Funds and Accept Donations of Materials and Services for the Events.**
- As recommended by the Rules and Open Government Committee on January 5, 2022: (a) Retroactively approve the following District 8 Events as a City Council sponsored Special Events and approve the expenditure of funds: (1) Cookies and Coats Drive from November 29, 2021 to December 7, 2021. (2) Cookies and Coats Drive on December 18, 2021. (3) Cookies and Coats Drive on December 19, 2021. (b) Approve and accept donations from various individuals, businesses or community groups to support the event. CEQA: Not a Project, File No. PP17-011, Temporary Special Events resulting in no changes to the physical environment. (Arenas) [Rules Committee referral 1/5/2022 – Item G.1.c]

Action: The City Council Sponsored Special Event was retroactively approved. (11-0-0.)

3. STRATEGIC SUPPORT

3.1 Report of the City Manager, Jennifer Maguire (Verbal Report)

None provided.

3.2 Labor Negotiations Update.

None provided.

3.3 21-2646 Team San José and the Convention and Visitors Bureau Performance Report Annual Review.

As recommended by the Community and Economic Development Committee on November 11, 2021, accept the report on Team San José and the Convention and Visitors Bureau's performance for FY 2020-21. CEQA: Not a Project, File No. PP17-009, Staff Reports, Assessments, Annual Reports, and Informational Memos that involve no approvals of any City action. (City Auditor) [Community and Economic Development Committee referral 11/11/2021 - Item (d)1] [Deferred from 12/14/2021 – Item 3.3 (21-2585)]

City Auditor, Joe Rois; Director of Cultural Affairs, Kerry Adams Hapner; and Team San José, CEO, John Lafortune offered the presentation and responded to questions.

Public Comment: Paul Soto and Tessa Woodmansee offered public testimony regarding the item.

Action: Upon motion by Councilmember Pam Foley, seconded by Councilmember Dev Davis, and carried unanimously, the report on Team San José and the Convention and Visitors Bureau's performance for FY 2020-21 was accepted. (10-0-1. Absent: Jimenez)

3.4 21-2647

Charter Review Commission Report and Recommendations.

(a) Accept the Report of the Charter Review Commission. (b) Provide direction to staff to develop any accepted recommendations for one or more ballot measures for the June 2022 statewide primary election, November 2022 statewide general election, or beyond, as appropriate. CEQA: Not a Project, File No. PP17-009, Staff Report, Assessments, annual Reports, and Informational Memos that involve no approvals of any City action. (City Clerk) [Deferred from 12/14/2021 - Item 3.5 (21-2546)]

City Clerk, Toni Taber offered the presentation and responded to questions.

Public Comment: Tessa Woodmansee, Paul Soto, Joshua, Kathryn Hedges, Deborah, Josh Marxen, Eva (*assisted with Spanish Translator*), Khari Crawford, Matt Gustafson, Giselle Chiprez, Alex Shoor, R. Konda, Michelle (Sacred Heart), Antonia (*assisted with Spanish Translator*), Tony Romero, Ilza Gonzales, Sandra Asher, Jennifer Parra, Esperanza, Meredith H., Bill James, Victor Sin, Cher L., Krista De La Torre, Sarah McDermott, Blair Beekman, David Noel, Esther (*assisted with Spanish Translator*), Teresita Rodriguez (*assisted with Spanish Translator*), Azucena, José L. Pavon, Migdalia, Arturo Munoz, Olivia Ortiz, Luz Maria, Gustavo Flores, Carlos Escobar, Carmen B., Jesus, Edith Arenas, Brenda Arenas, Aurora Solis, Femina Reyes, José Servin, Oscar Quiroz-Medrano, Rosario Ruiz, Caller 'User-1', Jennifer Myhre, Kim Guptil, Jeffie Khalsa, Leticia Pamatz, Elizabeth Agramont, Yasmin Mata, Michelle Schudel, Brian Mendoza, Gabriela, Mary Pelagio, Yurina Guzman, Gabriel Manrique, Elina Yin, Maria Urquiza, Mary Helen D., Cynthia C., Kimi, Lidia Garcia, Juana, Maria L., Sandy Perry, Diana Moreno (Spanish speaker), Victoria Partida, Brenda Zendejas, Carlos Arreola, Chris, Richard Hobbs, John B., Julia Curry, Rita Birrueta, Hector, Yusuf L., Anastasia (Spanish speaker), Christian Lopez, Corina Herrera-Loera, Celia A., Zulema Avalos, Juan A. Lujano, Maricela Lechuga, Jesus Flores, La Verdad, Jaqueline Mora, Mariana Mejia, Maria Fuentes, Brian, Adriana, Melissa Jaynes, Brenda Dohmen, Tim Clauson, Todd W, Sandra, David Bini, and 5 speakers offered public testimony regarding the item.

Action: Upon motion by Councilmember Sergio Jimenez, seconded by Councilmember Magdalena Carrasco, and carried unanimously, the Report of the Charter Review Commission was accepted, *with direction for the City Administration to schedule one study session for Charter Review Commission recommendations, and a separate additional Study Session solely for the issue of allowing voting for all residents.*

Including the acceptance of the amended joint memorandum from Councilmember Magdalena Carrasco and Councilmember Sylvia Arenas dated January 07, 2022, *excluding Item (2.b)*, recommending: (1) Accept the memorandum from Mayor Liccardo, Councilmember Jones, Jimenez, Cohen and Foley. (2) Direct the City Clerk, City Manager, and City Attorney to add the following additional Charter Review recommendations to the special study session: (a) Amending City Charter Section 1602 Election Procedure to: (i) Extend municipal voting rights to all residents of the City of San José. ~~(b) Amending City Charter Section 1600. Municipal Elections to: (i) Move odd-numbered districts to align with Presidential Election Cycles (ii) Move even-numbered districts to align with Gubernatorial Election Cycles~~ (3) Direct the Office of the City Clerk to work with the Santa Clara County Registrar of Voters to determine the systems needed to support the extension of municipal voting rights to all residents of the

City of San José.

Also including the acceptance of the joint memorandum from Mayor Sam Liccardo, Vice Mayor Chappie Jones, Councilmember Sergio Jimenez, Councilmember David Cohen, and Councilmember Pam Foley dated January 11, 2022, recommending: (1) Accept the final report of the San José Charter Review Commission. (2) Direct the City Clerk, City Attorney, and appropriate city staff to return for council's consideration the documentation necessary to order an election for the purpose of moving the San José Mayoral Election from Gubernatorial to Presidential years. Further, schedule all public hearings, agenda items, or special sessions necessary to ensure the question of moving the Mayoral Election is submitted to the voters of the City of San José at the June 7, 2022 established election date. (3) Direct the City Clerk, City Manager, and City Attorney to schedule and facilitate a special study session for the remaining Charter Review Commission recommendations for the purpose of: (a) prioritizing any additional ballot questions for the November 8, 2022 election, (b) providing council direction on which remaining recommendations from the commission to move forward for further evaluation for implementation. (10-0-1. Noes: Davis)

Council recessed from 6:00 p.m.- 6:30 p.m.

3.5 21-2652

Actions Related to the California Water and Wastewater Arrearage Payment Program.

(a) Accept the staff report regarding the California Water and Wastewater Arrearage Payment Program ("Program"). (b) Adopt a resolution: (1) Ratifying the City of San José application for the Program, and authorizing the City Manager, Director of Finance or their designees to negotiate and execute the necessary agreements, including any amendments or revisions, and other actions, to execute the grant and fulfill the Program requirements; (2) Accepting up to \$663,000, or the amount awarded, in Program funding; (3) Authorizing the Director of Finance to waive late fees for any arrearage accounts whose approval exceeds the Director of Finance signature authority, for an estimated total of \$37,601, in compliance with Program requirements; and (4) Authorizing the City Manager, Director of Finance or their designees to apply for, negotiate and execute any documents, and take other actions necessary to receive Program funds for wastewater arrearages if future funding becomes available, including the waiver of interest or late and other fees. CEQA: Not a Project, File No. PP17-004, Government Funding Mechanism, or Fiscal Activity with no commitment to a specific project which may result in a potentially significant physical impact on the environment. Council Districts 2, 4, 7 and 8. (Finance/Environmental Services)

Director, PBCE, Chris Burton and Deputy Director of Finance, John Kachmanian offered the presentation and responded to questions.

Public Comment: Paul Soto, Brian, and Caller 'User-1' offered public testimony regarding the item.

Action: Upon motion by Councilmember Sergio Jimenez, seconded by Councilmember David Cohen, and carried unanimously, (a) The staff report regarding the California Water and Wastewater Arrearage Payment Program was accepted and (b) **Resolution No. 80345** was adopted. (11-0-0.)

3.6 21-2653

Actions Related to the California Arrearage Payment Program.

(a) Accept the staff report regarding the California Arrearage Payment Program (“CAPP Program”). (b) Adopt a resolution: (1) Ratifying the City of San José application for the CAPP, and authorizing the City Manager, Director of Finance or their designees to negotiate and execute the necessary documents, including any amendments or revisions to the application, and take all other actions to accept the grant and fulfill the CAPP terms and conditions; (2) Accepting up to \$4,348,501, or the amount awarded, in CAPP funding; (3) Authorizing the Director of Finance or her designee to waive any late or other fees and accrued interest for customers that are awarded benefits in compliance with CAPP requirements; and (4) Authorizing the City Manager, Director of Finance or their designee to apply for, negotiate and execute any documents, and take other actions necessary to receive CAPP funds for electric arrearage, including the waiver of interest or late and other fees, if additional funding becomes available. CEQA: Not a Project, File No. PP17-004, Government Funding Mechanism, or Fiscal Activity with no commitment to a specific project which may result in a potentially significant physical impact on the environment. (Finance/Community Energy)

Deputy Director, Revenue Management Division, Finance Department, John Kachmanian and Assistant Director, San José Community Energy Department, Zach Struyk offered the presentation and responded to questions.

Public Comment: Brian, Blair Beekman, Caller ‘User-1’, and Gabby Mendoza offered public testimony regarding the item.

Action: Upon motion by Councilmember Maya Esparza, seconded by Councilmember Sergio Jimenez, and carried unanimously, (a) The staff report regarding the California Arrearage Payment Program (“CAPP Program”) was accepted and (b) **Resolution No. 80346** was adopted. (11-0-0.)

3.7 21-2660

Update on Negotiations with Valley Water on the Purified Water Project.

Accept the report regarding negotiation status for Santa Clara Valley Water District’s Purified Water Project in Santa Clara County. CEQA: Not a Project, File No. PP17-009, Staff Reports, Assessments, Annual Reports, and Informational Memos that involve no approvals of any City action. (Environmental Services) [Deferred from 12/14/2021 – Item 3.8 (21-2636)]

Deputy Director, Jeff Provenzano offered a verbal report and responded to questions.

Public Comment: Paul Soto, Caller ‘User-1’, Brian, and Blair Beekman offered public testimony regarding the item.

Action: Upon motion by Councilmember David Cohen, seconded by Vice Mayor Chappie Jones, and carried unanimously, the report regarding the negotiation status for Santa Clara Valley Water District’s Purified Water Project in Santa Clara County was accepted. (11-0-0.)

3.8 21-2658

Booster Mandate.

Adopt an urgency ordinance that: (a) Requires all attendees and staff at indoor events at City owned facilities -- such as the SAP Arena, Convention Center, and Center for Performing Arts -- to demonstrate prior to entry into an indoor event of 50 or more persons attending, either: (1) Proof of full vaccination and up-to-date boosters for all populations eligible to receive them; or (2) Proof of a negative COVID test pursuant to State guidelines. The facility operators should utilize commonly accepted and readily deployable methods of proof for vaccinations, boosters, and negative tests; and (b) Supersedes Ordinance No. 30652 adopted by Council on August 24, 2021. PLEASE NOTE: APPROVAL OF THIS URGENCY ORDINANCE REQUIRES 8 OR MORE AFFIRMATIVE VOTES. City Charter Section 605(d). CEQA: Not a Project, File No. PP17-008, General Procedure and Policy Making resulting in no changes to the physical environment. (Liccardo) [Rules Committee referral 1/5/2022 - Item G.4]

City Manager's Office, Dolan Beckel and Director, City Manager's Office, Matt Cano offered the verbal report and responded to questions.

Public Comment: Paul Soto, Brian, and Blair Beekman offered public testimony regarding the item.

Action: Upon motion by Councilmember David Cohen, seconded by Councilmember Magdalena Carrasco, and carried unanimously, the **Urgency Ordinance No. 30711** was adopted. (11-0-0.)

4. PUBLIC SAFETY SERVICES

5. TRANSPORTATION & AVIATION SERVICES

6. ENVIRONMENTAL & UTILITY SERVICES

7. NEIGHBORHOOD SERVICES

8. COMMUNITY & ECONOMIC DEVELOPMENT

9. REDEVELOPMENT – SUCCESSOR AGENCY

10. LAND USE

10.1 Land Use on Consent Calendar

- 10.1 (a) 21-2648 PDC18-032 & PD18-042 - Planned Development Rezoning and a Planned Development Permit on an approximately 0.25-gross acre site located northeast corner of Oakland Road and Faulstich Court (Ngo Nghi, Owner).**
- (1) Adopt a resolution adopting the Oakland Road Comfort Suites Project Mitigated

Negative Declaration, for which an Initial Study was prepared, and associated Mitigation Monitoring and Reporting Program, in accordance with the California Environmental Quality Act, as amended. (2) Approve an ordinance of the City of San José rezoning certain real property of approximately 0.25 acres on the northeast corner of Oakland Road and Faulstich Court from the CIC Combined Industrial/Commercial Zoning District to the CIC(PD) Planned Development Zoning District. (3) Adopt a resolution, approving subject to conditions, a Planned Development Permit to allow the construction of a five-story hotel with up to 48 rooms, an alternative parking arrangement (mechanical lifts), valet parking, an 8-foot masonry wall, and the removal of one non-ordinance sized tree on an approximately 0.25-gross acre site. CEQA: Oakland Road Comfort Suites Project Mitigated Negative Declaration. Planning Commission recommends approval (10-0-1; Bonilla absent). Council District 3. (Planning, Building and Code Enforcement).

DEFERRED TO 3/1/2022 PER ADMINISTRATION.

END OF CONSENT CALENDAR

10 Land Use - Regular Agenda

- 10.2 21-2649 PDC15-067 - Planned Development Rezoning for a Mixed-Use Development on a 2.77 gross-acre site located at 1260 E. Santa Clara Street. - *HEARD AT 6:32 P.M.**
- (a) Adopt a resolution adopting the Empire Lumber Mixed Use Mitigated Negative Declaration, for which an Initial Study was prepared, and associated Mitigation Monitoring and Reporting Plan, all in accordance with the California Environmental Quality Act (CEQA), as amended. (b) Approve an ordinance of the City of San José rezoning certain real properties situated on the south side of East Santa Clara Street, east of South 26th Street and north of Shortridge Avenue (1260 East Santa Clara Street) (APNs 467-33-001, 467-33-002, 467-33-003, 467-33-004, 467-33-006, 467-33-007, and 467-33-008) from CG Commercial General Zoning District and LI Light Industrial Zoning District to CP(PD) Planned Development Zoning District on a 2.77 gross-acre site. CEQA: Mitigated Negative Declaration for the Empire Lumber Mixed Use Project. Planning Commission recommends approval (8-0-3; Bonilla, Ornelas-Wise and Torrens absent). Council District 3. (Planning, Building and Code Enforcement) [Deferred from 12/14/2021 - Item 10.2 (21-2569)]

Director, PBCE, Chris Burton and Deputy Director, Michael Brilliot offered a verbal report and responded to questions.

Public Comment: Tessa Woodmansee, Mari Bedolla, Blair Beekman, Caller ‘User-1’, Paul Soto, Erik Schoennauer, and a speaker provided public testimony.

Action: Upon motion by Councilmember Raul Peralez, seconded by Councilmember Dev Davis, and carried unanimously, (a) **Resolution No. 80347** was adopted and (b) **Ordinance No. 30712** were passed for publication. Including the acceptance of the replacement memorandum from Councilmember Raul Peralez dated January 10, 2022, recommending: (1) To accept planning commission recommendations and require that the applicant or any future developer fully conform to the Roosevelt Urban Village Plan, including height, design standards and its interface with the Five Wounds Trail. (11-0-0.)

10.3 21-2650

C19-031 & SP20-016 - Conforming Rezoning and Special Use Permit for Property Located at 1212 South Winchester Boulevard. - HEARD AFTER 6:00 P.M.

(a) Adopt a resolution adopting the 1212-1224 South Winchester Boulevard Hotel Project Mitigated Negative Declaration, for which an Initial Study was prepared, and the associated Mitigation Monitoring and Reporting Plan, all in accordance with the California Environmental Quality Act (CEQA). (b) Approve an ordinance rezoning certain real property located on the east side of South Winchester Boulevard approximately 270 feet south of Fireside Drive from the R-1-8 Single-Family Residence Zoning to the CP Commercial Pedestrian Zoning District on an approximately 0.69 – gross acre site. (c) Adopt a resolution approving, subject to conditions, a Special Use Permit and Site Development Permit to allow the demolition of two existing commercial buildings and the removal of nine trees (four ordinance-size, five non-ordinance-size) and to allow the construction of an approximately 107,079-square foot, six-story, 119-room hotel with an approximately 49% parking reduction and an alternative parking arrangement on an approximately 0.69-gross acre site. CEQA: Initial Study/Mitigated Negative Declaration for the 1212-1224 South Winchester Boulevard Hotel Project. Council District 1. (Planning, Building, and Code Enforcement) [Deferred from 10/26/2021 - Item 10.2 (21-2569); and 11/16/2021 - Item 10.2 (21- 2386)]

Director, PBCE, Chris Burton and Deputy Director, Robert Manford offered a verbal report and responded to questions.

Public Comment: Paul Soto, Tessa Woodmansee, Kathy Brockdorf, Caller ‘User-1’, Caller ‘7504’, Mike Drabin, Tom Morman, Gaz, Behrouz Sroudi, David Bowman, Shehana M., Brian Matsumoto, Galina Drabkin, Jeff Williams, Vince, Aishah S., Misrayn, and Caller ‘A&Z Development provided public testimony.

Applicants, Henry Cord and Adam Askari spoke to the project.

Vice Mayor Chappie Jones disclosed an inadvertent Brown Act Violation before a motion was made.

Action: Upon motion by Vice Mayor Chappie Jones, seconded by Councilmember Dev Davis, and carried unanimously, (a) **Resolution No. 80348** was adopted, and (b) **Ordinance No. 30713** was passed for publication. Including the acceptance of the memorandum from Vice Mayor Chappie Jones, dated January 11, 2022, recommending to: (1) Accept staff recommendations (a) and (b). (2) Do not make determination on recommendation (c) due to the applicant requesting that the item be dropped. (10-0-1. Absent: Arenas)

Open Forum

1. Paul Soto spoke to the term Chicano and the Chicano community.
2. Caller “User-1” spoke to the booster mandate and urgency ordinances as a whole.
3. Blair Beekman spoke to racial equity, open public policies, and accountability.

Adjournment

The Council of the City of San José adjourned at 10:10 p.m. in honor and memory of Sotera Castillo Solis, who passed away on November 30, 2021 at the age of 101. Sotera was a beloved matriarch for the Solis family, and is survived by her six children, eighteen grandchildren, twenty-five great grandchildren, and eight great-great grandchildren.

Minutes Recorded, Prepared and Respectfully Submitted by,



Yasmin Johnson
Deputy City Clerk, City of San José

Approved at Council on:

of Actions: 11

Attest By:



Toni J. Taber, CMC
City Clerk, City of San José

CLOSED SESSION MINUTES

SAN JOSE, CALIFORNIA

TUESDAY, JANUARY 11, 2022

The Council of the City of San José convened into Closed Session at 9:34 a.m.

The meeting was held virtually, Councilmembers teleconferenced from remote locations.

Present: Councilmembers - Batra, Candelas, Cohen, Doan, Davis, Foley,
Jimenez, Ortiz, Torres, Kamei, Mahan.

Absent: Councilmembers - All present.

CLOSED SESSION ITEM(S) DISCUSSED:

A. CONFERENCE WITH LEGAL COUNSEL – EXISTING LITIGATION PURSUANT TO GOVERNMENT CODE SECTION 54956.9(d)(1):

1. Case Name: In re: M. Oliveri
Name(s) of Parties(s)
Court: Workers Compensation Appeals Court
Case No: ADJ10769116
Amount of Money or Other Relief Sought: Benefits
2. Case Name: In re: Erick Enderle
Name(s) of Parties(s)
Court: Workers Compensation Appeals Court
Case No: ADJ12751382, ADJ10004066, ADJ10016317, ADJ10004069 and ADJ10004068
Amount of Money or Other Relief Sought: Benefits
3. Case Name: Alvarez, Rosalba Avila, et al. v. City, et al.
Name(s) of Parties(s) Rosalba Avila Alvarez, Genaro Verduzco, and Tracy Melendez, Jose Raul Corona, City of San Jose, and Does 1-20, inclusive
Court: Superior Court of California, County of Santa Clara
Case No: 17CV314395

Amount of Damages according to proof
Money or Other
Relief Sought:

B. CONFERENCE REGARDING POTENTIAL THREAT TO PUBLIC SERVICES OR FACILITIES PURSUANT TO GOVERNMENT CODE SECTION 54957(a):

Consultation with: IT Department
San Jose Police Department
Representatives: Rob Lloyd, Deputy City Manager
Anthony Mata, Chief of Police

C. CONFERENCE WITH LEGAL COUNSEL - ANTICIPATED LITIGATION:

Significant exposure to litigation pursuant to Sections 54956.9(d)(2) and (e)(1) of the Government Code:

Number of matter(s) to be discussed: 1

D. CONFERENCE WITH LABOR NEGOTIATOR PURSUANT TO GOVERNMENT CODE SECTION 54957.6:

City Negotiator: Jennifer Schembri, Director of Employee Relations

Employee Organizations:

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| 1. | Organization or Name and Title of Unrepresented Employees: | Association of Building, Mechanical and Electrical Inspectors (ABMEI) |
| | Nature of negotiations: | wages/salaries, hours, working conditions, etc. |
| | Name of Existing Contract or MOA: | Memorandum of Agreement – City of San José and Association of Building, Mechanical and Electrical Inspectors (ABMEI) |
| | How to Obtain a copy of Existing Contract or MOA: | Web: http://www.sanjoseca.gov/index.aspx?NID=508
Telephone – Employee Relations: (408) 535-8150 |
| 2. | Organization or Name and Title of Unrepresented Employees: | Association of Engineers & Architects (AEA) |
| | Nature of negotiations: | wages/salaries, hours, working conditions, etc. |
| | Name of Existing Contract or MOA: | Memorandum of Agreement — City of San José and Association of Engineers & Architects (AEA) |

How to Obtain a copy of Existing Contract or MOA: Web: <http://www.sanjoseca.gov/index.aspx?NID=508>
Telephone – Employee Relations: (408) 535-8150

3. Organization or Name and Title of Unrepresented Employees: **Association of Maintenance Supervisory Personnel (AMSP)**
Nature of negotiations: wages/salaries, hours, working conditions, etc.
Name of Existing Contract or MOA: City of San José - Association of Maintenance Supervisory Personnel (AMSP) Benefit & Compensation Summary

How to Obtain a copy of Existing Contract or MOA: Web: <http://www.sanjoseca.gov/index.aspx?NID=508>
Telephone – Employee Relations: (408) 535-8150

4. Organization or Name and Title of Unrepresented Employees: **City Association of Management Personnel Agreement (CAMP)**
Nature of negotiations: wages/salaries, hours, working conditions, etc.
Name of Existing Contract or MOA: Benefit & Compensation Summary — City of San José and City Association of Management Personnel Agreement

How to Obtain a copy of Existing Contract or MOA: Web: <http://www.sanjoseca.gov/index.aspx?NID=508>
Telephone – Employee Relations: (408) 535-8150

5. Organization or Name and Title of Unrepresented Employees: **International Association of Firefighters (IAFF), Local 230 (IAFF#230)**
Nature of negotiations: wages/salaries, hours, working conditions, etc.
Name of Existing Contract or MOA: Memorandum of Agreement Between City of San José and International Association of Firefighters (IAFF), Local 230

How to Obtain a copy of Existing Contract or MOA: Web: <http://www.sanjoseca.gov/index.aspx?NID=508>
Telephone – Employee Relations: (408) 535-8150

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| <p>6. Organization or Name and Title of Unrepresented Employees:
Nature of negotiations:
Name of Existing Contract or MOA:

How to Obtain a copy of Existing Contract or MOA:</p> | <p>International Brotherhood of Electrical Workers, Local 332 (IBEW)</p> <p>wages/salaries, hours, working conditions, etc.</p> <p>Memorandum of Agreement Between City of San José and International Brotherhood of Electrical Workers, Local 332 (IBEW)</p> <p>Web: http://www.sanjoseca.gov/index.aspx?NID=508</p> <p>Telephone – Employee Relations: (408) 535-8150</p> |
| <p>7. Organization or Name and Title of Unrepresented Employees:
Nature of negotiations:

Name of Existing Contract or MOA:

How to Obtain a copy of Existing Contract or MOA:</p> | <p>Municipal Employees’ Federation, AFSCME Local 101, AFL-CIO (MEF)</p> <p>wages/salaries, hours, working conditions, etc.</p> <p>Memorandum of Agreement — City of San José and Municipal Employees’ Federation, AFSCME Local 101, AFL-CIO</p> <p>Web: http://www.sanjoseca.gov/index.aspx?NID=508</p> <p>Telephone – Employee Relations: (408) 535-8150</p> |
| <p>8. Organization or Name and Title of Unrepresented Employees:
Nature of negotiations:
Name of Existing Contract or MOA:

How to Obtain a copy of Existing Contract or MOA:</p> | <p>International Union of Operating Engineers, Local No. 3 (OE#3)</p> <p>wages/salaries, hours, working conditions, etc.</p> <p>Memorandum of Agreement Between City of San José and International Union of Operating Engineers, Local No. 3 (OE#3)</p> <p>Web: http://www.sanjoseca.gov/index.aspx?NID=508</p> <p>Telephone – Employee Relations: (408) 535-8150</p> |

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| <p>9. Organization or Name and Title of Unrepresented Employees:</p> <p>Nature of negotiations:</p> <p>Name of Existing Contract or MOA:</p> <p>How to Obtain a copy of Existing Contract or MOA:</p> | <p>Peace Officer Park Ranger Association
(POPRA)</p> <p>wages/salaries, hours, working conditions, etc.</p> <p>Memorandum of Agreement — City of San José and Peace Officer Park Ranger Association</p> <p>Web:
http://www.sanjoseca.gov/index.aspx?NID=508</p> <p>Telephone – Employee Relations: (408) 535-8150</p> |
| <p>10. Organization or Name and Title of Unrepresented Employees:</p> <p>Nature of negotiations:</p> <p>Name of Existing Contract or MOA:</p> <p>How to Obtain a copy of Existing Contract or MOA:</p> | <p>San José Police Officers’ Association
(SJPOA)</p> <p>wages/salaries, hours, working conditions, etc.</p> <p>Memorandum of Agreement — City of San José and San José Polices’ Association</p> <p>Web:
http://www.sanjoseca.gov/index.aspx?NID=508</p> <p>Telephone – Employee Relations: (408) 535-8150</p> |
| <p>11. Organization or Name and Title of Unrepresented Employees:</p> <p>Nature of negotiations:</p> <p>Name of Existing Contract or MOA:</p> <p>How to Obtain a copy of Existing Contract or MOA:</p> | <p>Association of Legal Professionals of San José
(ALP)</p> <p>wages/salaries, hours, working conditions, etc.</p> <p>Memorandum of Agreement – City of San José and Association of Legal Professionals of San José</p> <p>Web:
http://www.sanjoseca.gov/index.aspx?NID=508</p> <p>Telephone – Employee Relations: (408) 535-8150</p> |